IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1941 OF 2004
ALONG WITH
WRIT PETITION NOS.2720/2004, 3528/2004, 4215/2004
AND 9306/2004

WRIT PETITION NO.1941 OF 2004

Abdul Samad Adhikari).. Petitioner

Versus

Union of India and others).. Respondents

ALONG WITH
WRIT PETITION NO.2720 OF 2004

Sudhiraja Plastics Pvt.Ltd. and another).. Petitioners

Versus

The Union of India and others).. Respondents

WITH
WRIT PETITION NO.3528 OF 2004

Rachana Polypack and another).. Petitioners

Versus

The Union of India and others).. Respondents

WITH
WRIT PETITION NO.4215 OF 2004

Susang Kokan Plastics Pvt. Ltd. & anr.).. Petitioners

Versus

The Union of India and others).. Respondents

AND
WRIT PETITION NO.9306 OF 2004

Saurabh Plastic Industry Pvt. Ltd. & ors).. Petitioners

Versus

The Union of India & ors.).. Respondents

Mr.Datta Palekar with Mr.Nilesh Pawaskar and Ms.Aparna Vhatkar for the Petitioners in Writ Petition Nos.1941 of 2004, 2720/2004, 3528/2004 and 4215/2004.

Ms.S.D.Khot for the Petitioners in Writ Petition No.9306 of 2004.

Mr.D.N.Salvi for Union of India in Writ Petition Nos.1941/2004 and 2720/2004.

Ms.Suchitra Kamble for Union of India in Writ Petition Nos.3528/2004, 4215/2004 and 9306/2004.

Mr.J.J.Bhatt with Ms.Anjali Chandurkar i/b.A.S.Dayal & Associates for Respondent No.4 in Writ Petition Nos. 1941/2004, 2720/2004, 3528/2004, 4215/2004 and for Respondent No.6 in Writ Petition No.9306 of 2004.

CORAM: V.G. PALSHIKAR AND SMT.NISHITA MHATRE, JJ.

DATED: 17TH FEBRUARY 2005

P.C. :

. By this Petition, the Petitioners seek exercise of jurisdiction under Article 226 for interference of rights which are essentially, basically and largely contractual obligations in nature. The Supreme Court of India has observed in *State of Himachal Pradesh* vs. *Raja Mahendra Pal and others*, **AIR 1999 SC 1786** as under:-

> "... It is true that the powers conferred upon the High Court under Article 226 of the Constitution are discretionary in nature which can be invoked for the enforcement of any fundamental right or legal right but not for mere contractual rights arising out of an agreement particularly in view of the existence of efficacious alternative remedy.

> The Constitutional Court should insist upon the party to avail of the same instead of invoking the extraordinary writ jurisdiction of the Court. This does not however debar the Court from granting the appropriate relief to a citizen under peculiar and special facts notwithstanding the existence of alternative efficacious remedy. The existence of the special circumstances are required to be noticed before issuance of the direction by the High Court while invoking the jurisdiction under the said Article. The High Court appears to have adopted a very generous, general and casual approach in applying the right to livelihood to the facts and circumstances of the case apparently for the purpose of clothing itself with the power and jurisdiction under Article 226 of the Constitution. We are sure that if the High Court had considered the argument in the right perspective and in the light of various pronouncements of this Court, it would not have ventured to assume jurisdiction for the purposes of conferring the State largess of public money, upon an unscrupulous litigant who preferred his claim on his proclaimed assumption of being as important as the Government of the State and equal thereto...."

In view of this dicta of the Supreme Court of India, we are firmly of the view that the appropriate remedy for the reliefs claimed in these Petitions lie before the Civil Court of appropriate jurisdiction.

2. The Petitioners also have the remedy of resorting to alternate dispute resolution system whereby the proceedings of conciliation and mediation are also open to the Petitioners. That being the situation, Petitions dismissed.